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Re: ADM 2003-22-10, Shared Economic, Threshold and Cubing

I support changing the Shared Economic Responsibility Formula to the “cubed method.” I oppose changing the threshold to 52 days.

The Shared Economic Responsibility Formula tries to deal with the difficult issue of how to adjust child support when the parties substantially share in the physical care of their children. The 50% abatement of child support for extended parenting time isn't sufficient for cases where parents share their children almost equally. For example, if both parents had equal incomes and had the children equal amounts of time, it would seem (in the absence of any other facts) that their support obligations would balance out to zero. A 50% abatement would still require one parent to pay at least 75% of normal support ($100\% - (.5)(50\%)$) if the parenting time was all in blocks of at least 6 overnights. It would be possible that the payer would pay 100% of normal support, if all of his parenting time was in blocks of less than 6 overnights.

One suggestion was the straight offset method; to stop child support completely for each day that a child was not with the primary custodial parent, and require that parent to pay a day's worth of support to the parent who had the child. The calculations are relatively easy to do, and result in a gradual and consistent reduction of support as the child spends more time with the noncustodial parent. In a case where the parents' earnings are equal, the payer would pay 100% of support if he never visited, yet support would balance out at zero if the parties' had equal time with their child.

The problem with this method is that a fairly typical parenting time schedule (alternate weekends, one week at Christmas and Spring Break, one half of the summer break) constitutes 91 days of parenting time per year. This is about a quarter of the year. The straight offset method would require the payer to pay for only the 75% of the year that the payee had the child, and the payer would receive an additional offset of 25% of the child support from the payee for the time the child was with the payer. If the parties had roughly equivalent incomes, child support would be cut in half ($75\% - 25\% = 50\%$). Most people felt that this was not the appropriate result.

The current Shared Economic Responsibility Formula was an attempt to soften the effect of the straight offset method, while still maintaining the two endpoints everyone could agree on; 100% of the child support should be paid if there was little or no parenting time exercised, and child support should be \$0 if the parties had the same earnings and the same amount of time with their child. The method, called the ratio of the squares, decreased support only slightly when there was little parenting time, but provided for more pronounced decreases as parenting time became significant. There was still some discomfort with the Shared Economic Responsibility Formula, and an initial compromise was reached, prohibiting its application until parenting time reached at least 35% of the time (128 days).

The unfortunate side effect of this compromise was the “cliff”; child support at 128 days of parenting time was as much as 45% less than it was at 127. There was, of course, no justification for such a dramatic decrease based on one day of parenting time. Parties would argue bitterly about parenting time that approached 128 days, not because they wanted time with their children, but because the extra days had a huge effect on the child support.

Over the years the child support subcommittee has heard many complaints about this cliff from parties, attorneys, and Friend of the Court personnel. The proposal changes the Shared Economic Responsibility Formula so that small amounts of parenting time have little effect on child support, but child support will still be zero for parents with equal income and equal time with their children. For up to 100 days per year of parenting time, there is little difference between the proposed Shared Economic Responsibility formula and a 50% abatement. The attached graphs and

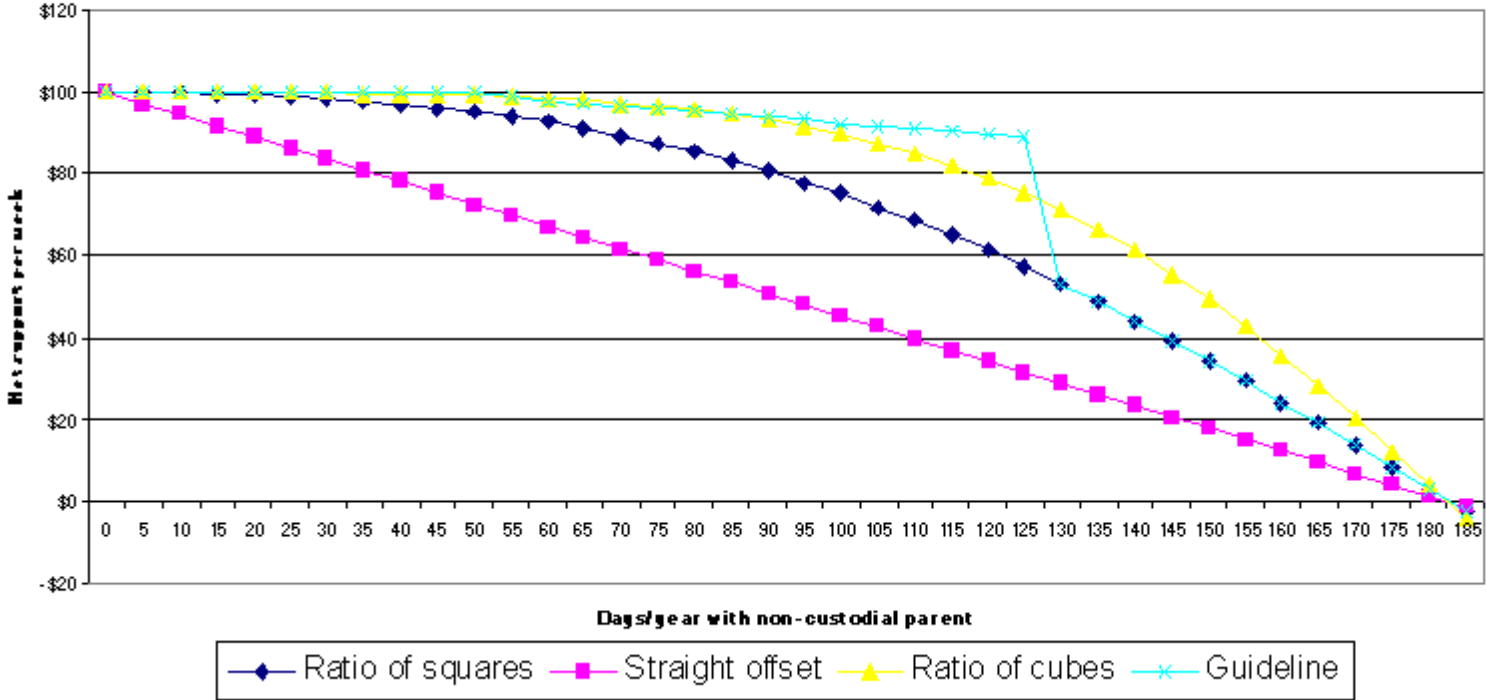
tables attempt to show the effect of the different methods of adjusting for parenting time.

Threshold

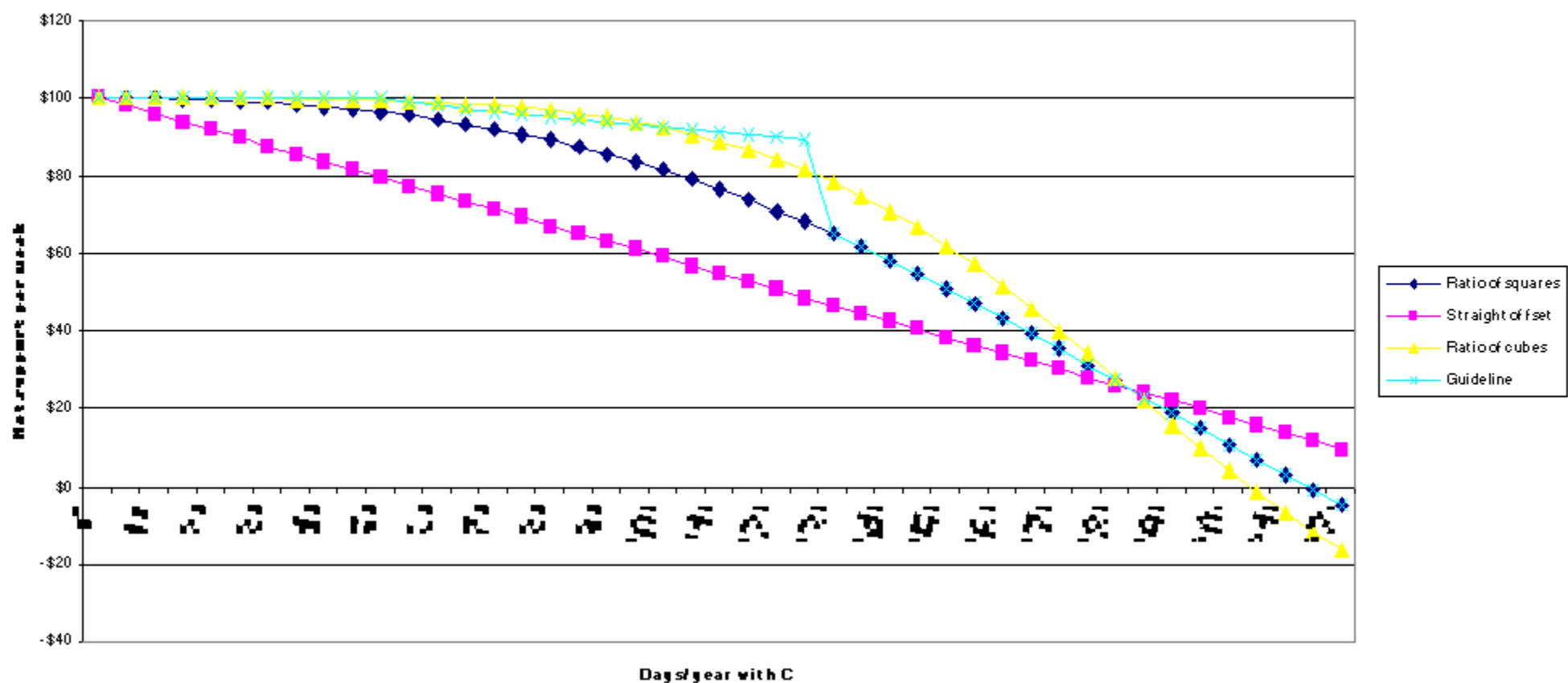
The subcommittee recommended that the Shared Economic Responsibility formula be used in any case with at least 105 days of parenting time in a year. 105 days represented one day more than parenting time on every weekend, which would be a significant amount of parenting time but much less than the present 128. There would also be only a slight drop in support, less than a 5% difference. The current proposal is to have Shared Economic Responsibility start at 52 days per year, meaning that any case with alternate weekend parenting time would qualify. There are some advantages to this proposal. There is absolutely no difference in child support using the 50% abatement provision or the Shared Economic Responsibility formula at 52 days of parenting time, so there would be no financial incentive to argue about additional parenting time at the threshold. Also, cases with Shared Economic Responsibility are not eligible for the 50% abatement, which would relieve the Friend of the Court of the burden of processing requests for parenting time abatement. Each request for a parenting time abatement requires the Friend of the Court to review the case to make sure of the eligibility, to confirm the parenting time with the custodial parent, and to calculate the amount of the abatement based on days of parenting time. Shared Economic Responsibility eliminates these tasks.

On the other hand, the 52-day threshold requires the complex calculation of Shared Economic Responsibility in almost every case. This would require access to a PC wherever child support was being negotiated. It also makes it more likely that children would be considered to be in different custody arrangements. Under the current formula, if one child is with a parent 100 days a year and a second child spends only 85 with that parent, both children are considered to be in the other parent's sole custody. Under the proposed threshold, each child would be deemed to be in different custody arrangement. an area where the current Michigan Child Support Formula Manual is clearly wrong.

Shared economic responsibility formulas: Each party having a \$100/week child support obligation



SER Formulas : NC pays \$100/wk, C pays \$50 per week



SER Formulas: NC pays \$100/wk, C pays \$0/wk.

